

SENATE JOURNAL

Fifty-third Legislature—First Called Session

AUSTIN, TEXAS, MONDAY, MARCH 15, 1954

PROCEEDINGS

FIRST DAY

(Monday, March 15, 1954)

In obedience to the proclamation of the Honorable Allan Shivers, Governor of the State of Texas, the Senate met in the Senate Chamber at the City of Austin on the 15th day of March, 1954, at 12:00 o'clock, meridian.

Temporary Officers

The President announced the appointment of the following as temporary officers of the Senate:

Secretary of the Senate, Loyce Bell;
Journal Clerk, Minnie Meier;
Calendar Clerk, Martha Turner;
Doorkeeper, Charles Jones;
Sergeant-at-Arms, John Dorman;
Chaplain, Rev. W. H. Townsend.

Quorum Present

The President directed the Reading Clerk to call the roll of the Senate:

The roll was called and the following Senators were present:

Aikin	Moore
Ashley	Parkhouse
Bell	Phillips
Bracewell	Rogers
Colson	of Childress
Corbin	Rogers of Travis
Fuller	Russell
Hardeman	Rutherford
Kazen	Sadler
Kelley	Secrest
Lane	Shireman
Latimer	Strauss
Lock	Wagonseller
Martin	Willis
Moffett	

Absent—Excused

Hazlewood	Weinert
McDonald	

The invocation was offered by the Reverend W. H. Townsend, Chaplain.

Leaves of Absence

Senator McDonald was granted leave of absence for today on account of a death in the family, on motion of Senator Martin.

Senator Weinert was granted leave of absence for today on account of illness on motion of Senator Ashley.

Senator Hazlewood was granted leave of absence for today on account of illness on motion of Senator Bracewell.

Proclamation by Governor Calling Special Session

The President laid before the Senate and directed the Reading Clerk to read the following Proclamation from the Governor:

PROCLAMATION

by the
Governor of the State of Texas
41-705

To All to Whom These Presents Shall Come:

I, Allan Shivers, Governor of the State of Texas, do by virtue of authority vested in me by the Constitution of Texas, hereby call a Special Session of the Fifty-third Legislature to be convened in the City of Austin, commencing at twelve o'clock noon on Monday the fifteenth day of March, A. D., 1954, for the following purposes:

1. To finance and make such appropriations as the Legislature may deem necessary to provide a new minimum salary schedule for public free school teachers.

2. To finance and make such appropriations as the Legislature may deem necessary to adjust the salaries of employees of the State of Texas.

3. To finance and make such appropriations as the Legislature may deem necessary for the construction of needed buildings at the following State institutions:

- (a) Southwestern Medical School of the University of Texas at Dallas;
- (b) The University of Texas Dental Branch at Houston;
- (c) Texas School for the Deaf; and
- (d) Eastham Unit of Texas Prison System.

4. To outlaw the Communist Party in Texas and make provisions for the enforcement of any such act.

5. To consider and act on such other subjects and questions as the Governor may submit from time to time.

The Secretary of State will take notice of this action and will notify the members of the Legislature.

Done at Austin, Texas, this eleventh day of March, A. D., 1954, under the Seal of this State properly attested by the Secretary of State.

ALLAN SHIVERS,
Governor of Texas.

(Seal)

Attest:

Howard Carney,
Secretary of State.

Appointment of Temporary Pages

The President announced the appointment of the following as temporary pages of the Senate:

Royce Roberts, Jr., Paul Bloebaum, Craig Hicketheir, Jack Burkowski, Jimmy Baker, Richard Wentreck, Curtis Adrian, Jr., Jeffrey Jamar, Danny Brown, Gordon Boriskie, George Huff, Hershel Lewallen, Dale Parsons, and Larry Dupuy.

Senate Resolution 1

(Caucus Report)

Senator Aikin offered the following resolution:

Austin, Texas,
March 15, 1954.

Hon. Ben Ramsey, Lieutenant Governor, Senate of Texas, Austin, Texas.

Sir: At a caucus held in the office of the Senate attended by 25 members of the Senate, the following recommendations were made, to-wit:

The following officers were elected to serve for the First Called Session

of the 53rd Legislature, and at the salaries set opposite their names:

Secretary of the Senate, Loyce Bell, \$425.00 per month.

Assistant Secretary of the Senate, which shall be appointed by the Secretary of the Senate, \$10.00 per day.

Journal Clerk, Mrs. Minnie Meier, \$11.00 per day.

Sergeant-at-Arms, for the duration of the First Called Session, John Dorman, \$12.50 per day.

Doorkeeper, Charles R. Jones, \$10.00.

Chaplain, Rev. W. H. Townsend, \$7.00.

Calendar Clerk, Mrs. Martha Turner, \$10.00.

Engrossment and Enrolling Clerk, Essie McGinnis, \$15.00.

Postmistress, Mrs. Lola Lawrence, \$10.00.

Mailing Clerk, Mrs. John Draper, \$10.00.

Parliamentarian, named by the Lieutenant Governor, Dan Moody, Jr., \$12.50.

It is recommended that each Senator, Lieutenant Governor and the Secretary of the Senate, be permitted to name one secretary, who shall act as clerk of the committee of which the Senator naming such employee is chairman, such employee to receive \$10.00 per day, except the private secretary of the Lieutenant Governor, who shall receive \$12.00 per day, and except the salaries of other employees which may be supplemented at the discretion of the Contingent Expense Committee. All officers and employees elected by this caucus shall hold their office or employment for the duration of the First Called Session of the 53rd Legislature.

It is further recommended that each Senator, the Lieutenant Governor and the Secretary of the Senate be permitted to name two employees of the Senate in addition to their private secretary, that the names of such employees be referred to an Assignment Committee hereinafter provided for, that said committee be authorized to select employees from said list, and that said employees so named by the Senators, the Lieutenant Governor and the Secretary of the Senate to receive \$8.00 per day.

It is further recommended that the Lieutenant Governor be authorized to name a committee of five, such committee shall be designated as an Assignment Committee for the purpose of assigning employees as herein au-

thorized and the committee be authorized to select sufficient additional employees to be assigned by it when and where needed.

It is further recommended that the employees and the porters who were selected to prepare the Senate Chamber in advance of the meeting be allowed pay for their services.

It is further recommended that the several appointments of employees heretofore made by the Lieutenant Governor and announced in the Senate and considered by the caucus are confirmed.

The salaries of the day and night elevator operators shall be \$5.00 per day each, and the salaries of the porters shall be \$4.50 per day each, except the head porter whose salary shall be \$7.50 per day and the porter carrying the mail shall receive \$4.50 per day, and the salaries of the pages shall be \$4.00 per day, and the salaries of the messengers shall be \$4.00 per day.

The Lieutenant Governor is requested to recommend that the Southwestern Telephone Company employ Miss Mary Jacobs to attend the duties of the telephone operator of the Senate, and a night operator be named by the assignment committee, out of the employees whose names are filed with said committee.

The Lieutenant Governor, Senators and the Secretary of the Senate are hereby fully authorized and empowered to use any assistant Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that no employee of the Senate, shall, during the time he or she is employed, furnish to any person, firm or corporation any information other than general information furnished the public pertaining to the Senate, and they shall not receive any compensation from any person, firm or corporation during their employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to the Lieutenant Governor, members of the Senate, Secretary of the Senate, committee, or to the head of a department, shall report for duty at eight o'clock a.m., and one o'clock p.m., each day to the Sergeant-at-Arms of the Senate, except part-time employees, who shall report at the place and time directed

by the Sergeant-at-Arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the Lieutenant Governor, each Senator and the Secretary of the Senate, be allowed the stationery and postage needed by them, respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that 1500 journals be printed, all of which shall be prorated among the Senators and Lieutenant Governor, except that 175 journals shall be furnished the members of the House.

It is further recommended that the Senate request the State Comptroller of Public Accounts, to issue general revenue warrants for pay of the members and employees of the Senate upon presentation of the payroll account signed by the Presiding Officer and the Secretary of the Senate.

It is further recommended that each Senator, the Lieutenant Governor, the Secretary of the Senate, and Librarian be permitted to subscribe for four newspapers to be paid for out of the contingent fund.

The elected officers of the Senate may select, subject to the approval of the Contingent Expense Committee, employees to fill such key positions as may be authorized by said committee.

It is further recommended that the President of the Senate has exclusive appointment of a sufficient number of custodians, messengers, pages, elevator operators, porters and other employees as in his judgment may be necessary.

It is further recommended that the Chairman of the Finance Committee shall have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, who shall discharge the duties of the Finance Committee.

It is further recommended that the private rooms allotted to the Senators by the method as adopted by the caucus be assigned to Senators and their successors unless otherwise directed by the Senate.

It is further recommended that each

Senator, as quickly as possible, file with the Secretary of the Senate the name of his private secretary selected; that he also file with the Chairman of the Assignment Committee aforesaid the names of the employees selected, together with his or her post office address.

BE IT FURTHER RESOLVED, that no employee of the Senate except those whose official duties require them to work upon the floor of the Senate, shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate to come on the floor for some official duty, which, when performed, he will immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

Only those who have the privileges of the floor during the sessions of the Senate shall be permitted on the Senate floor for a period of thirty minutes prior to the time the Senate convenes. The Sergeant-at-Arms is instructed to enforce this rule and to permit only those having the privileges of the floor to enter or remain on the Senate floor during such thirty minute period.

Respectfully submitted,
A. M. AIKIN, JR.,
Chairman of the Caucus.

The resolution was read.

On motion of Senator Aikin, and by unanimous consent of the Senate, the reading of the report was dispensed with and it was adopted as a resolution of the Senate.

Oath of Office Administered to Officers of the Senate

The President requested the elected officers of the Senate to proceed to the Bar of the Senate and were administered the Constitutional Oath of Office.

Election of President Pro Tempore

The President announced the election of a President Pro Tempore as the next order of business.

Senator Bell nominated Senator Gus J. Strauss of Lavaca County as President Pro Tempore for the First Called Session of the Fifty-third Legislature.

Senators Hardeman, Moore, Bracewell, Aikin, Kelley, Moffett, Park-

house, Phillips, Lane, Ashley and Sadler seconded the nomination of Senator Strauss as President Pro Tempore.

There being no further nominations, the President appointed Senators Rogers of Travis and Fuller as tellers to take up and count the ballots.

The ballots were taken up and counted and the President announced that Senator Gus J. Strauss had received 27 votes with one present not voting for President Pro Tempore of the First Called Session of the Fifty-third Legislature.

Senators Bell, Hardeman and Bracewell were appointed to escort Senator Strauss and his family to the President's Rostrum. The President administered the constitutional oath of office as President Pro Tempore to Senator Strauss and presented him to the Senate.

President Pro Tempore Strauss addressed the Senate, thanking the Members for the honor bestowed upon him and promised fairness and cooperation as a presiding officer.

The President then presented Mrs. Strauss and Mary Rose, Olin and Gus Strauss, Jr., to the Members of the Senate.

Committee to Notify the Governor

The President announced the following as a Committee to Notify the Governor that the Senate is organized and ready to transact business: Senators Bracewell, Colson, Lane, Rogers of Travis and Martin.

Committee to Notify the House

The President announced the appointment of the following as a Committee to Notify the House that the Senate is organized and ready to transact business: Senators Bell, Kazen, Latimer, Phillips and Sadler.

Senate Resolution 2

Senator Moffett offered the following resolution:

Whereas, Our esteemed colleague, Senator R. A. Weinert, Dean of the Senate, is now convalescing at his home in Seguin from a recent major operation; and

Whereas, His absence, because of

his ability and experience, shown through long and distinguished service, is a serious handicap to the deliberations and work of this body; and

Whereas, His colleagues wish to take this opportunity to express their affection and esteem and to wish him a speedy recovery both for his own sake and for the welfare of the State of Texas; now, therefore, be it

Resolved, By the Senate of the Fifty-third Legislature of Texas, that the sympathy and best wishes of all members of the Senate be extended to Senator Weinert, and that a copy of this resolution be sent to him.

MOFFETT
MARTIN
BRACEWELL.
LOCK

Lieutenant Governor Ben Ramsey, Senators Aikin, Ashley, Bell, Colson, Corbin, Fuller, Hardeman, Hazlewood, Kazen, Kelley, Lane, Latimer, McDonald, Moore, Parkhouse, Phillips, Rogers of Childress, Rogers of Travis, Russell, Rutherford, Sadler, Secrest, Shireman, Strauss, Wagonseller, Willis.

The resolution was read.

On motion of Senator Hardeman the names of the Lieutenant Governor and all the Senators were added to the resolution as signers thereof.

The resolution was then adopted.

Governor Notified

The Committee to Notify the Governor that the Senate was organized appeared at the Bar of the Senate and Senator Bracewell for the Committee notified the President and the Senate that it had performed the duty assigned it.

Senate Resolution 3

Senator Lock offered the following resolution for Senator Weinert:

Whereas, We are honored today to have in the gallery members of the Boerne High School, accompanied by Mr. Gentry; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine class of young American citizens are here to ob-

serve and learn firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Lock presented the students and teachers to the members of the Senate.

Presentation of Guests

Senator Strauss, by unanimous consent, presented as guests of the Senate today Mr. Paul Fertsch, County Judge, Mr. Leon Kahanek and wife and Mr. and Mrs. Armond G. Schwartz and wife, all of Hallettsville, Texas.

House Notified

The Committee to Notify the House that the Senate is organized appeared at the Bar of the Senate, and Senator Bell for the committee reported that the committee had performed the duty assigned it.

Presentation of Guests

Senator Secrest presented as guests of the Senate today the Explorer Scouts of Post 108 of Temple, Texas, and their leader Mr. Joe Everts.

Senate Notified

A committee from the House appeared at the Bar of the Senate and Representative Banks for the committee announced that the House of Representatives was organized and ready to transact business.

Message From the House

Hall of the House of Representatives,
Austin, Texas,
March 15, 1954.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 3, Providing for a Joint Session of the House and Senate for the purpose of hearing a message to

the Legislative by his Excellency, the Honorable Allan Shivers, Governor of Texas.

Respectfully submitted,
CLARENCE JONES,
Chief Clerk, House of Representatives.

House Concurrent Resolution 3

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 3, Providing Joint Session at 3:00 o'clock P. M., March 15, 1954, to hear message of Governor Allan Shivers to the Legislature.

The resolution was read.

On motion of Senator Aikin, and by unanimous consent, the resolution was considered immediately and was adopted.

Recess

On motion of Senator Rogers of Travis, the Senate, at 1:07 o'clock p.m. took recess until 2:45 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:45 o'clock p.m. and was called to order by the President.

Committee to Escort Governor to Joint Session

The President announced the following Committee pursuant to the provisions of H. C. R. No. 3 to escort Governor Allan Shivers to the Joint Session: Senators Lane, Aikin, Ashley, Rutherford and Martin.

Joint Session

(To hear an address by the Honorable Allan Shivers, Governor of Texas.)

The President of the Senate and the Senators present proceeded to the Hall of the House of Representatives at 3:00 o'clock p.m.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The President called the Senate to order, and announced a quorum of the Senate present.

Hon. Reuben Senterfitt, Speaker of the House of Representatives, called the House to order, stated the purpose of the Joint Session and announced a quorum of the House present.

The Honorable Allan Shivers, Governor of the State of Texas, and party were announced by the Doorkeeper of the House.

The Governor was escorted to the Speaker's rostrum by Senators Lane, Aikin, Ashley, Rutherford and Martin on the part of the Senate and Representatives Kilgore, Bates of Hidalgo, de la Garza, Patten and Smith of Jefferson on the part of the House.

The Speaker of the House presented the Honorable Allan Shivers, Governor of Texas, to the Joint Session. The Governor then addressed the Joint Session as follows:

It is a high honor and, at the same time, a solemn duty for me to come before you today and tell you why this special session has been called. Actually, there is no mystery about it; the whys and wherefores of this session are well known.

The regular session of the 53rd Legislature, while highly successful in many respects, left unsolved certain pressing problems. These unanswered questions involve the welfare of all the people of Texas.

It is in the public interest not to delay for another year a reasonable solution of these problems.

Paramount among them is the urgency of providing a well deserved and sorely needed increase in salary for our public school teachers.

This is the centennial year of public school education in Texas. In 1854 our forefathers committed us to the proposition that the youth of this state should be educated at public expense. Their vision was great.

Mirabeau B. Lamar, who is called the "Father of Texas Education," said:

"Education is a subject in which every citizen and especially every parent, feels a deep and lively concern. It is one in which no jarring interests are involved, and no acrimonious political feelings excited; for its benefits are so universal that all parties can unite in advancing it."

All of us should feel "a deep and lively concern" for our public school system; and we must all lay aside

our personal differences and work together for its advancement.

The background of this problem is too familiar to require much elaboration. When the Legislature convened last year, there was general agreement that the school teachers needed a pay increase. The issues upon which the proposal failed were those of amount, method and source—not its merits.

Let us not waste time in trying to assess the blame for that failure. Rather let us grant that there was a wide range of opinion upon those issues, and that sincere people on both sides found themselves unable to reach an agreement.

Following the regular session, both the leaders of the Texas State Teachers Association and the Governor recognized that, whatever the differences, they were of one mind on the basic proposition: Texas needed more teachers, and Texas teachers needed more money. In this opinion we were joined by many—I think I can truthfully say most—of the members of this Legislature. Discussions continued; and as a result, a committee of twenty-five outstanding men and women, including legislators, teachers and businessmen, was appointed. A long period of study and negotiation followed.

Eventually, this committee developed what it agreed was a compromise solution. This compromise represented the composite thinking of twenty-five qualified and interested people, who in turn represented almost as many viewpoints on school matters.

I want to pay the warmest tribute within my power to these twenty-five committee members. They worked long and hard, with diligence, patience and courage. Each worked in good faith with persons of differing views, in the spirit of give-and-take that is an indispensable element in the final settlement of all controversial matters.

I recommend to your favorable attention the result of their labors. I hope you, too, will approve the program they have developed.

Their recommendation, and mine, is for a \$402 increase in the minimum annual salaries of Texas teachers. This proposal applies the so-called 80-20 formula for dividing state and local Foundation Program financial responsibilities. At the same time, it

provides an additional budgetary allowance of \$100 for each professional unit.

This \$100 provision has been erroneously described as a "building allowance." It is not. It may be applied as the local trustees see fit. It may be used as an offset against the local assignment; however, if a district chooses to collect its total assignment, the \$100 allowance may be used for merit raises, for buildings, for operation expenses, or for any other legitimate costs. I earnestly hope that no one, through either ignorance or malice, will try to make it sound complicated or frightening. This \$100 allowance can never be increased or decreased except by majority action of the Texas Legislature.

One thing that recommends the \$100 offset to me is the fact that approximately 50 of the least prosperous school districts in the state, by using this allowance as an offset, will have to contribute little, if anything, to the Minimum Foundation Fund. This is the answer to those who claim that putting state and local contributions on a percentage basis would wreck the poor districts. Under this compromise plan, those least able to pay will receive, proportionately, the greatest benefits. This is entirely consistent with the program to which we are dedicated, of equalizing the opportunity and, to some extent, the cost of public school education in Texas.

I want to stress that this bill represents a genuine compromise. Anyone familiar with the stormy debates of the last regular session will immediately see that this is not the "teachers' bill" or the "administration bill" or any other measure proposed in 1953. The enactment of this compromise plan will not represent a "victory" for anyone — except for the deserving teachers of Texas and, through the advantages it will bring to the public school system, for all the school children of Texas.

Also deserving of your sympathetic consideration at this special session are the state employees. For them the current appropriation bill carried a \$180-a-year increase, which was all the available fund would stand. This raise was, and is, admittedly insufficient to bring state salaries within reasonable range of those in private employment. I repeat here a statement I have made to you in the past: It is just as important, and per-

haps even more important, for government to have capable, well-paid employees as it is for private industry to have them.

I recommend that you add \$120 a year to the increase already given these faithful workers, thus bringing the total to the \$300 figure that was generally conceded to be the minimum at the start of the last regular session.

Salary increases for teachers and state employees, necessarily, will be items of recurring expense. To provide them without an upward adjustment in the tax structure, even if that course were open to us, would merely be a temporary evasion and would only magnify the task for the next regular session of the Legislature. Any accumulated surplus of general revenue money in the present biennium—and fortunately there is a surplus in sight—should be used for those desperately needed capital improvements that the 53rd regular session had to forego for lack of funds.

We cannot afford to delay any longer the authorization of a minimum building program at several of our state institutions. I submit for your consideration, with an urgent recommendation for favorable action, the following specific projects:

1. For the Southwestern Medical School of the University of Texas, a new clinical science building costing \$3,500,000. It is a shame and a disgrace to the State of Texas and to the great University that bears its name, to house a medical school in the shacks on this campus at Dallas. If you do not agree, you should visit them, as I have done recently.

2. For the University of Texas Dental School at Houston, to complete and equip a building suitable for training the future dentists of Texas—\$1,187,500.

3. For the Texas Prison System, construction totaling \$3,500,000 at the Eastham Prison Farm. The antiquated facilities there are beyond repair, and a growing prison population necessitates these improvements for reasons of security as well as decency.

4. And—probably the most urgently needed of all—for the replacement and renovation of buildings at the Texas School for the Deaf in Austin, to provide safe, fireproof facilities for more than 400 children—\$2,500,000. From the outside, these buildings

look fairly substantial. On the inside, they are two and three-story firetraps where deaf children sleep in actual danger every night. Let fire break out in one of those buildings; the result could be nothing less than tragic—a tragedy that would haunt every man who had had an opportunity to prevent it. My recommendation of this project is more than a request—it is a plea.

These four building programs will cost a total of \$10,687,500. The Comptroller has estimated that the General Revenue Fund has a prospective end-of-the-biennium balance of \$11,900,000. This means that all these capital improvements can be paid for out of the accumulated surplus from present taxes. Legislative session costs, Governor's deficiency, the judicial retirement fund and other necessary items will consume the balance.

Adoption of the \$402 teachers' pay raise and an increase of \$120 a year for state employees will mean recurring expenditures of approximately \$25,600,000 a year and will necessitate the levying of new taxes in that amount.

At this point it might be the discreet thing for me to say that money-raising is the prerogative of the Legislature—and that I don't want to infringe upon your prerogatives. Perhaps because I served in the Legislature myself, I look at it a little differently. When the Governor recommends the spending of money, I think he ought to recommend also the means of raising that money. When he puts you on the spot, I think he ought to have the courage to get on it with you.

In that spirit, and with the understanding that this is merely my recommendation, I offer the following suggestions for raising the necessary new money without placing an undue burden on anyone.

1. The Legislature has, in the past, selected natural gas as a source of additional revenue. Specifically, in 1951, it selected gas-gathering as a field of tax action to raise \$14,000,000 a year in needed revenue. That tax has now been declared unconstitutional by the Supreme Court of the United States.

To replace that unconstitutional gas-gathering tax, I recommend the enactment of a similar tax carefully revised to eliminate legal pitfalls, in the amount of one-half cent per thou-

sand cubic feet, designed to raise the same \$14,000,000 a year.

This new gas-gathering tax will be presented for your study in a form prepared and approved by some of the best legal minds in the State of Texas. They think it is constitutional, and so do I.

The proposed gathering tax—just as its predecessor—would fall to a limited extent upon the producer. It seems to be the nearest we can get, however, to the long lines, and the only sound way to get a major portion of the increased revenue from someone other than the producer and royalty owner.

The only safe alternative would be to raise the severance tax on gas sufficiently to provide an additional \$14,000,000 a year. This would require a rate of 10 per cent of value in place of the present 5.72 per cent. The dark clouds of the Federal Power Commission cast shadows on the Texas gas industry. If in the interest of conservation you feel that a minimum price law would be wise, the above rates could be reduced accordingly.

2. I have said that there should be no undue burden placed upon anyone. The present tax on beer is \$1.37 a barrel. In our neighboring states of Louisiana and Oklahoma, the state tax on beer is \$10 a barrel. It seems to me that the Texas tax could be increased to a flat \$2 a barrel without placing any real strain upon the industry. Such an increase would bring in approximately \$3,000,000 a year more from this source. I recommend that this be done.

3. In levying new taxes, there is always logic in trying to spread the burden as widely as possible. A tax with a very broad base is the franchise tax. All corporations doing business in Texas must pay this tax, at the present rate of \$1.25 per \$1,000 of corporate assets. I recommend that this tax be increased to \$2, to bring in an additional \$8,600,000 a year.

This source has several factors to recommend it. One has been mentioned—the fact that every corporation will pay its share, in direct proportion to its capital assets. Another advantage is that this revenue will make it unnecessary to single out any industries for specific tax increases, with the already noted exceptions of beer and gas. In addition, let me point out that—the federal income tax on corporations being what it is today—Uncle Sam will pick up 52 per cent of the check.

To summarize I propose that we provide the required new revenue by (1) a new gas-gathering tax replacing \$14,000,000; (2) an additional 63-cents-a-barrel tax on beer, calculated to raise \$3,000,000; and (3) a 75-cent increase in the franchise tax that will bring in \$8,600,000 for an annual total of \$25,600,000—the amount we must have to give the teachers a \$402 annual raise and state employees an additional \$10 a month on their modest paychecks.

This is a plan—my plan—to do the job. It is merely one plan; if you do not like it, I hope you will get a suitable plan of your own. It is never as pleasant a task to raise money as it is to spend it. Passing a new tax bill is always difficult. As legislators and public officials, we are rather inclined to the same human view as various groups of taxpayers; we want to be “entirely fair”—we want to “spread the burden”—in brief, we want someone else to pay it.

I believe, that, through the years, I have been as conservative about the raising and spending of public money as any public official—but I do not believe that I have ever favored an expenditure and, at the same time been unwilling to vote for a tax bill to meet it. I am confident that the members of this Legislature will feel the same way about the task before us now.

By no means have I listed all of the pressing needs for additional appropriations. There are several other worthy projects that I would like to submit at this session, if time permits and if the money is available. These include funds for operating the new medical school hospital at Galveston; for the nursing school at Texas Western; for junior colleges, to meet the demands of increased enrollments; and for implementing, at long last, the adult probation law.

One other subject that will definitely be submitted, in a special message, is that of legislation to outlaw the Communist Party in Texas and to provide proper penalties for persons found guilty of plotting to overthrow our government.

Let me thank you again for the privilege of coming before you in person to pose the questions that created the necessity for this special session—and to suggest to you some of the possible answers.

If I have not made my views clear on any point, I hope you will come to me, individually or in groups, and give

me an opportunity to clarify them. My time is yours for the next 30 days, and my only desire is to be helpful to you in working out a reasonable, equitable and effective solution to our problems.

A hundred years ago Governor E. M. Pease told the Texas Legislature: "The highest and most sacred duty of a free government is to provide the means for educating its citizens in a manner that will enable them to understand their duties and their obligations; this, too, is a measure that is enjoined upon the Legislature by the Constitution. . . ."

Those words from another century remind us today that our actions here involve not only the living present and the future but also the illustrious past—that we are, in effect under the level-eyed scrutiny of men and women long dead, pioneer leaders and early builders of a great educational system. Their spirit inspires us to work all the harder to perpetuate and improve upon their dream of a truly equal, truly adequate and truly Texan opportunity for the boys and girls of Texas.

This is part of our heritage—this opportunity, and this responsibility.

Good luck—God bless you—and thank you.

At the conclusion of the address by Governor Shivers, the President announced the purpose of the Joint Session concluded and requested the Senate to retire to its Chamber.

In the Senate

The President called the Senate to order at 3:35 o'clock p. m.

Senate Bills on First Reading

Pursuant to provisions of the Proclamation of the Governor for the First Called Session of the Fifty-third Legislature, the following bills were introduced, read first time, and referred to the committees indicated:

By Senators Aikin, Lock, Parkhouse, Hardeman, Lane, Willis, Rogers of Childress, Wagonseller, Russell, Sadler, Corbin, Moore, Rogers of Travis, Latimer and Kazen:

S. B. No. 1, A bill to be entitled "An Act amending Article IV of Senate Bill 116, Chapter 334, Acts of 51st Legislature, by adding a new section thereto to be designated as Section 1-a; amending Article V of Senate Bill

116, supra, as amended by Senate Bill 90, Chapter 198, Acts of 52nd Legislature and as amended by House Bill 367, Chapter 241, Acts of 53rd Legislature, by adding a new section to be designated as Section 1-a; amending Section 4 of Article V of Senate Bill 116, supra; amending Sections 2 and 4 of Article VI of Senate Bill 116, Acts of 51st Legislature, supra; providing a saving or severability clause; and declaring an emergency." (Teachers Salary Increase)

To the Committee on Educational Affairs.

By Senators Rogers of Travis and Willis:

S. B. No. 2, A bill to be entitled "An Act making an appropriation for an increase in salaries of state officials and state employees for the period beginning with the effective date of this Act and ending on August 31, 1955, supplementing the salaries designated and/or provided for in H. B. 111, Acts of the Regular Session of the 53rd Legislature; and declaring an emergency."

To Committee on Finance.

By Senator Lock:

S. B. No. 3, A bill to be entitled "An Act making an appropriation of the sum of One Hundred Thousand (\$100,000) Dollars or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of members and the per diem of officers and employees of the First Called Session of the 53rd Legislature, and any other necessary expenses of the 53rd Legislature; and declaring an emergency."

To the Committee on Finance.

By Senators Kelley, Bell and Lane:

S. B. No. 4, A bill to be entitled "An Act finding a Communist conspiracy in existence committed to the overthrow of the government of the United States and of this State by force or violence, constituting a clear and present danger thereto; declaring the Communist Party of the United States, including its local components in Texas, illegal; depriving it of all rights, privileges, and immunities otherwise incident thereto; providing for forfeiture of property to the State and procedure for recovery thereof;

making membership in, or participation in the violent overthrow activities of such party a felony; providing a penalty; providing for severance of the Act in event of invalidity of any part; and declaring an emergency."

To the Committee on Civil Jurisprudence.

By Senators Kelley and Bell:

S. B. No. 5, A bill to be entitled "An Act making it unlawful to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy, or alter, or to assist in the overthrow, destruction, or alteration of, the constitutional form of the government of the United States, or of the State of Texas, or any political subdivision of either of them, by force or violence, or to advocate, abet, advise, or teach by any means any person to commit, attempt to commit, or aid in the commission of any such act under certain circumstances, or to conspire to commit any of such acts, or to assist in the formation or participate in the management or contribute to the support of or become or remain a member of certain organizations, or to destroy any books, records, or files, or secrete any funds of certain organizations; defining certain terms; defining offenses and providing penalties, disqualifications, and forfeitures therefor; making it unlawful for certain organizations to exist or function; and providing for dissolution and forfeitures therefor; providing for prima facie evidence upon proof of certain facts; creating a Board to assist in administration of the Act, and providing for appointment and payment of members; providing for meetings and procedures of such Board, and for investigation and hearing of charges filed under the Act against any person or organization; providing for filing of such charges, notice of hearing, rights of persons or organizations charged, authority, powers, and duties of the Board, attendance and payment of witnesses, entry of orders, and appeal therefrom, procedure for appeal, discretionary stay of orders pending appeal; prohibiting issuance of any charter, license, permit, franchise, or card or certificate of permission to certain persons and organizations found guilty of violating the Act or against whom adverse findings have been made by the Board, and providing for avoidance of any already is-

sued; prohibiting any person found guilty of violating the Act or against whom an adverse finding has been made by the Board from holding any office or position with the State or political subdivision, providing for discharge and removal thereof; providing for enforcement of the Act by restraining orders, injunctions, and other civil proceedings; providing for issuance and execution of search warrants; providing for clerical help, supplies, services, and space; making an appropriation for such items and to pay witness fees, per diem, and expenses, and to pay per diem and expenses of Board members; providing for severance of the Act in event of invalidity of any part; and declaring an emergency."

To the Committee on Civil Jurisprudence.

By Senator Lock:

S. B. No. 6, A bill to be entitled "An Act making appropriations to pay deficiency grants approved by the Governor for which no appropriations have heretofore been made; making an appropriation to pay claims arising prior to the convening of the next session of the Legislature under deficiency grants hereafter approved by the Governor which are payable from the General Revenue Fund; and declaring an emergency."

To the Committee on Finance.

Senate Concurrent Resolution

Senator Kelley offered the following resolution:

S. C. R. No. 1, Memorializing Congress and the other States relative to proposed amendment to the Constitution on treaty-making powers.

Whereas, On April 19, 1920, the United States Supreme Court, in *Missouri v. Holland*, 252 U. S. 416, held that notwithstanding the Tenth Amendment to the Constitution of the United States, a treaty with a foreign power, implemented by an act of Congress subsequently passed for that purpose, authorized the government of the United States to control and regulate matters which otherwise would be subject to regulation by the states alone; and

Whereas, In its opinion in that case (two distinguished Justices dissenting) it was said:

"... Acts of Congress are the supreme law of the land only when made in pursuance of the Constitution, while treaties are declared to be so when made under the authority of the United States. It is open to question whether the authority of the United States means more than the formal acts prescribed to make the convention. . . . there may be matters of the sharpest exigency for the national well-being that an act of Congress could not deal with, but that a treaty followed by such an act could. . . . The treaty in question does not contravene any prohibitory words to be found in the Constitution. The only question is whether it is forbidden by some invisible radiation from the general terms of the 10th Amendment.

"... we cannot put the case of the state upon higher ground than . . . that, but for the treaty, the state would be free to regulate this subject itself.

"... No doubt the great body of private relations usually falls within the control of the state, but a treaty may override its power."

On these grounds, it was decided "that the treaty and statute must be upheld"; and

Whereas, The same court, on February 2, 1942, in the case of *United States v. Pink*, 315 U.S. 203, with two Justices dissenting and two others not participating, held that an executive agreement, made by the President with a foreign power, but not ratified or concurred in by the Senate (as required in case of a treaty by Article II of the Constitution), has the same dignity as a treaty made by the President and ratified by the Senate. In consequence, the court decided that the insurance laws of the State of New York, made for the protection of policyholders and other creditors, were invalidated by the act of the President alone; and

Whereas, In addition to the treaty and executive agreement referred to in the decisions above mentioned, many others have been made, and still more are proposed, or in preparation, the effects of which, if made, upon the rights and powers of the states, and the rights of the people, would be disastrous. For examples, reference is made to the Atlantic Charter agreement of 1941; those made at the Cairo and Teheran conferences in 1943, and at Yalta and Potsdam in 1945, all of which were

made by the President alone without submission to or ratification by the Senate; also the Potato executive agreement of November 23, 1948, likewise unsubmitted and unratified, but which the United States is now attempting to enforce through the Supreme Court notwithstanding it was held invalid by the Court of Appeals for the Fourth Circuit (*United States v. Capps, Inc.*, 204 Fed. 2d 655), and by the trial court (100 Fed. Supp. 30), partly because it constituted a clear violation of a valid act of Congress. Reference is also made to the efforts of our State Department (partly successful) to by-pass or nullify, by executive agreements, the will of Congress expressed in the Stockpiling Acts, relating to strategic materials. To the extent of their success, such agreements might make it necessary for this country, in the event of war, to depend upon supplies wholly inaccessible except by the use of long sea-lanes. Reference is made, further, to the Warsaw Convention, ratified by the Senate in 1928, whereby the right of recovery of an airline passenger holding an international ticket is limited, even where a crash occurs in this country, to about \$8,500.00; and to the Pandora's box of proposed treaties and covenants (including the Human Rights and Genocide covenants) prepared or preparing in the mills of the United Nations, under some of which a citizen of this country might be haled before and tried and convicted by a foreign court, without a jury, for expressing his opinion or practicing his religion in this country. Finally, reference is made to the fact that at least one of our Congressional Committees has been refused full information as to all of this nation's unfulfilled commitments under executive agreements on the ground of national security; and

Whereas, To rescue the rights and powers of the states from such Federal encroachments, and to protect the people in the enjoyment of their constitutional rights and liberties, the Senate Foreign Relations Committee in 1953 reported out favorably Senate Joint Resolution No. 1, introduced by Senator John H. Bricker of Ohio, and many other Senators, including the Honorable Price Daniel, but no favorable or satisfactory action has so far been taken thereon; and

Whereas, It is evident that under the decisions, treaties and agreements

mentioned above the rights and powers of the sovereign states and the constitutional rights and liberties of the people of the United States have already been violated and are in great danger of further encroachment and possible destruction by unwarranted and injudicious exercise of the so-called treaty-making power; and that this danger is enhanced by the multitude of treaties, conventions, and international compacts and agreements which have been and probably will be proposed by the United Nations and other international associations; now, therefore, be it

Resolved, By the Senate of the State of Texas, the House of Representatives concurring:

Section 1. That the Legislature of the State of Texas hereby petitions the Congress of the United States that during its present session it submit to the states for ratification a proposed amendment to the Constitution of the United States for the purpose of limiting the treaty-making power so that, if ratified by the states, (1) no provision of a treaty or other international compact or agreement which conflicts with the Constitution of the United States shall have any force or effect; (2) no international compact or agreement which has not been concurred in by the Senate, as provided in Article II of the Constitution, shall be, or have the dignity or legal effect of, a treaty under Article VI of the Constitution; (3) no treaty or other international compact or agreement shall be effective as internal law within the United States except to the extent it may be made so by an act of Congress enacted to enforce or implement the same; (4) no treaty shall be concurred in by the Senate except by the affirmative vote of two-thirds of a quorum of the Senate, on which the yeas and nays shall be entered on the journal; and (5) the Constitution shall not be in any way or to any extent altered or amended except by one of the methods provided in Article V thereof.

Section 2. The legislatures of all the other states are hereby urged and invited, for the preservation of their own powers and the protection of the constitutional rights of the people of such respective states, to adopt similar resolutions.

Section 3. Promptly after the passage of this resolution the Secretary of the Senate shall transmit a certi-

fied copy of this resolution to each of the following:

(a) The Vice President and the Speaker of the House of Representatives of the United States;

(b) The members of the Texas delegation in the Congress of the United States;

(c) The Governor and Attorney General of each state, and the presiding officers of each House of each State Legislature or Legislative Assembly.

The resolution was read and was referred to the Committee on State Affairs.

Co-author of Senate Bills 4 and 5

Senator Bell asked unanimous consent to be shown as co-author of Senate Bills Nos. 4 and 5.

There was no objection offered.

Adjournment

On motion of Senator Hardeman, the Senate, at 3:50 o'clock p. m., adjourned until 10:30 o'clock a. m. tomorrow.

SECOND DAY

(Tuesday, March 16, 1954)

The Senate met at 10:30 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Moore
Ashley	Parkhouse
Bell	Phillips
Bracewell	Rogers
Colson	of Childress
Corbin	Rogers of Travis
Fuller	Russell
Hardeman	Rutherford
Kazen	Sadler
Kelley	Secrest
Lane	Shireman
Latimer	Strauss
Lock	Wagonseller
Martin	Willis
Moffett	

Absent—Excused

Hazlewood	Weinert
McDonald	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.